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U.S. accused of enforcing neutrality laws selectively

By James O'Shea
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WASHINGTON—Claude Perpignand is a Haitian native, now an American citizen, who jumped at a chance to help when a group approached him in New York a few years ago with a plot to invade Haiti.

When Perpignand was a small boy in Port-au-Prince 25 years ago, his attorney says, his father was riddled with bullets and dragged through the streets to serve as an example to those who dared oppose right-wing dictator Francois "Papa Doc" Duvalier, father of the current president.

Tommy Posey, 38, is a produce dealer in Alabama who belongs to Civilian Military Assistance, a group helping rebels in Nicaragua in their effort to topple the leftist Sandinista government there.

Posey and others say they have not actually fought in Nicaragua, but they have traveled often to Central America and two of their members were shot down in a rebel helicopter over Nicaragua last year in what the Sandinistas called a combat situation.

ALTHOUGH THE GOALS of the two men might seem similar, the "fortunes of war" have turned out differently for Posey and Perpignand. Posey and the Civilian Military Assistance got a pat on the back for forays into Central America from none other than President Reagan, who views the Marxist-oriented Sandinistas as a threat to U.S. security.

But Perpignand ended up in a New Orleans jail, prompting accusations that the Reagan administration's diplomatic goals color its enthusiasm for enforcing the law back home.

Indeed, when asked about the propriety of Civilian Military Assistance activities in an October interview with Scripps-Howard Newspapers, the President equated the group's actions with American participation in the "Flying Tigers," World War II volunteers who flew cargo in China and Burma before the United States declared war on the Japanese.

"I have to say that it is quite in line with what has been a pretty well-established tradition in our country," he said. "I'm not a lawyer, so I never asked about the actual legality of anything of that kind. I would be inclined not to want to interfere."

BUT THERE WERE no accolades for the crew that included Perpignand. Several "comrades in arms" turned out to be federal agents well aware of laws that prohibit private citizens from launching invasions of other countries.

Perpignand may have joined an invasion force that "couldn't have overrun a day-care center," in the words of his own lawyer, but the U.S. Justice Department had 55 hours of videotapes recording the plot to overthrow the right-wing regime in Haiti, whose extreme poverty and anticommunist policies brought it \$46 million in U.S. aid last year.

As a result, Perpignand and most of his comrades pleaded guilty after sitting in jail for quite a while, and he is engaged in a court fight accusing the Reagan administration of enforcing U.S. neutrality laws only when it suits foreign policy goals.

"Here you have a government on one hand condoning and supporting a violation of the law in Nicaragua, and on the other hand it is expending public funds to set people up" for arrest, said Ramsey Clark, former U.S. attorney general and now a New York lawyer for Perpignand.

"Even you or I with our obvious disadvantages could go through the Haitian community here like the Pied Piper. They are an exiled community with a strong pull to go home."

CLARK ALLEGED that the Reagan administration enforces the neutrality laws only when friendly right-wing governments are involved, but a Justice Department spokesman denied that a double standard exists.

There is no question that it is against American law for private citizens to play John Wayne and launch assaults on foreign lands. In 1794, Congress enacted the Neutrality Act, which prohibits private citizens from embarking on paramilitary expeditions against a nation with which the nation is at peace.

"Whoever, within the U.S.," the law's sweeping language says, "knowingly begins or . . . provides, prepares, furnishes money for or takes part in any military or naval expedition or enterprise to be carried on from [the U.S.] against the territory of any foreign prince or state" can be fined as much as \$3,000 or be sentenced to three years in jail or both.

There also is no question that there are highly charged political feelings on both sides of the question.

THE U.S. HAS not declared war against Nicaragua. But it is no secret that the Central Intelligence Agency supports the rebels trying to topple the Sandinistas, a regime that has adopted some of the same oppressive practices that it condemned before it came into power. The Reagan administration understandably feels uncomfortable with a government in Nicaragua that it views as another Cuba.

Haiti is run by Duvalier's son, Jean Claude Duvalier, who has a lifetime hold on the presidency. He maintains a virtual police state and lures U.S. aid by capitalizing on U.S. support for anticommunist governments.

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Many Haitian natives in the U.S. understandably despise the fear and poverty that grip Haiti, despite Duvalier's promise for improvements in human rights.

But under American legal principles, emotions and politics don't justify enforcement of the law in one case but not another.

Federal prosecutors used the neutrality law to ensnare Perpignand and a handful of others, Clark said, all of whom had been lured to New Orleans by federal agents in an elaborate trap.

NO SUCH ENFORCEMENT efforts have been directed against Civilian Military Assistance or many of the other groups directing private aid to the rebels in Nicaragua, according to a report by the Central American Project, a private research organization that studied aid to the rebels.

The Justice Department says the two cases are different.

"If you have some group in the southern [U.S.] that keeps getting into a boat with a rusty sword and a shotgun and heading for Haiti, that's against the law," a department spokesman said, because it is a blatant violation easy to prove in court.

Civilian Military Assistance, he said, knows the technicalities of the law and takes care to avoid any blatant missteps. As a result, he said, there is no proof of any illegality in this situation under the department's policy on enforcement of the neutrality law.

The department said the Haitians took elaborate steps within the U.S. to launch the invasion, including trips to an island up the Mississippi River where the forces were to train.

"They knowingly prepared for an invasion from within the U.S.," the spokesman said. In contrast, he said, Civilian Military Assistance gathers equipment and delivers it to Central American nations, such as Honduras, that are not the target of an invasion.

MOREOVER, THE department said there is nothing illegal about private shipment of equipment or aid to Central America even if it ends up in the hands of the rebels, as long as the proper export licenses are obtained.

"The act generally has been construed as not prohibiting the private support of military expeditions that have been organized in, and launched from, countries other than the U.S.," according to an October, 1984, Justice Department letter to the Senate Foreign Relations Committee spelling out the enforcement policy on the Neutrality Act.

But Clark said the department's policy is lawless. Clark has filed an appeal of Perpignand's case, charging that the Reagan administration is selectively enforcing the neutrality law.

SOME INDICATION exists that the Justice Department does not enforce the Neutrality Act as vigorously as other laws. A report last April by the General Accounting Office, the congressional investigative agency, said the department does prosecute isolated cases against Cuba, a nation that the Reagan administration dislikes more than Nicaragua.